

TITLE 13. NEW MOTOR VEHICLE BOARD

NOTICE OF PROPOSED ACTION

NOTICE IS HEREBY GIVEN that the New Motor Vehicle Board of the State of California ("Board"), pursuant to the authority vested in it by Section 3050, subdivision (a) of the Vehicle Code, proposes to amend section 599 (Conflict of Interest Code) of the regulations contained in Title 13 of the California Code of Regulations in order to implement the requirements of sections 87300 through 87302, and 87306 of the Government Code.

PROPOSED REGULATORY ACTION

The Board proposes to amend its Conflict of Interest Code after consideration of all comments, objections, and recommendations regarding the proposed action.

The proposed amendments to the Board's Conflict of Interest Code include employee positions that involve the making or participation in the making of decisions that may foreseeably have a material effect on a financial interest, as set forth in subdivision (a) of section 87302 of the Government Code. A brief overview of the proposed amendments to the Board's Conflict of Interest Code appears immediately below:

The proposed amendments will add to the Board's Conflict of Interest Code list of designated positions the Board's Executive Director and General Counsel. The proposed amendments will add to the list of designated positions, employee positions which, within the meaning of Commission Regulation 2 Cal. Code of Regs. Section 18700, make or participate in the making of governmental decisions. The revised Conflict of Interest Code is consistent with Government Code Section 87306.

PUBLIC DISCUSSIONS PRIOR TO NOTICE

Prior to the publication of this notice, the proposed text of the amended regulation was considered at a noticed General meeting of the Board held on January 18, 2001. Ten days prior to the meeting, a detailed agenda including the consideration of the proposed amendments to the regulation was mailed to the Board's Public Mailing List, a list of approximately 150 individuals, entities and governmental agencies who have requested notification by the Board of pending Board matters. No comments by the public were received at the January 18, 2001, meeting, and no further public discussions were held. The proposed amendments affect only Board employees and do not involve complex proposals or a large number of proposals that cannot easily be reviewed during the comment period.

PUBLIC HEARING

A public hearing to receive oral or written comments on these regulations will be held at the following time and place:

DATE: August 9, 2001
TIME: 10:00 a.m.
PLACE: New Motor Vehicle Board
Hearing Room #2
1507 21st Street, Suite 330
Sacramento, California 95814

At the hearing, any person may present statements or arguments orally or in writing via U.S. Postal Service mail, facsimile or electronic mail, relevant to the proposed action described in the Informative Digest. The hearing will continue until all oral and written comments are presented. The Board requests but does not require that a person who makes comments at the hearing also submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

Notice is also given that any person interested may present statements or arguments in writing via U.S. Postal Service mail, facsimile or electronic mail, relevant to the proposed amendments to the agency officer named below at the address identified below on or before 5:00 p.m. on August 9, 2001. The Board will consider only comments received at the Board offices by that time. Submit comments to:

Mike Dingwell, Staff Counsel
New Motor Vehicle Board
1507 21st Street, Suite 330
Sacramento, CA 95814
(916) 445-2080
Fax: (916) 323-1632
E-mail: www.nmvp@pacbell.net

The official record of the rulemaking procedure will be closed at 5:00 p.m. following the conclusion of the public hearing on August 9, 2001. Written comments received after 5:00 p.m. on August 9, 2001, will not be considered unless an extension of time in which to receive written comments is announced at the public hearing.

AUTHORITY AND REFERENCE

Authority cited: Section 3050(a), Vehicle Code; Sections 87300, 87304 and 87306, Government Code. Reference: Sections 81000, et seq., Government Code.

INFORMATIVE DIGEST

Vehicle Code section 3050, subdivision (a) authorizes the Board to adopt rules and regulations governing such matters as are specifically committed to it.

In 2000, the Board reclassified its two senior management positions. The Board's Executive Secretary position was recast as Executive Director. The duties of the Board's Assistant Executive Secretary were changed to that of General Counsel.

In addition, following a review of the classes of designated employees utilized in the Department of Motor Vehicles' (Department) Conflict of Interest Code, the Board determined it should include in its Conflict of Interest Code additional designated employee positions which mirror equivalent positions at the Department. The Board proposes to amend its Conflict of Interest Code to include the reclassified senior management positions and the additional class of designated employees.

The proposed amendments would affect the following sections of the Conflict of Interest Code:

Appendix A

1. The Executive Secretary position is amended to Executive Director and the Assistant Executive Secretary is amended to General Counsel.
2. The positions of Staff Counsel, Staff Services Analyst, Staff Services Manager I and Associate Governmental Program Analyst were added to the list of designated positions. Each of the positions added were assigned to disclosure category 2.
3. Disclosure Category 1(a)(1) is amended to require the report of income received during the reporting period from a licensee subject to the jurisdiction of the Board.
4. Disclosure Category 1(a)(2) is amended to require the report of income received during the reporting period from an applicant to the Board who has or had any proceeding pending before the Board.
5. Disclosure Category 1(a)(3) is amended to require the report of income received during the reporting period from a party contracting with the Board engaged in the performance of work or services of the type utilized by the Board.
6. Disclosure Category 2(a) subsections (1)-(3) are amended to require designated employees to report investments and business positions held in any entity IF the designated employee knows or has reason to know the entity or source of income is:

- (1) A licensee subject to the jurisdiction of the Board;
- (2) An applicant to the Board who has or had any proceeding pending before the Board; or
- (3) Of the type that in the last 2 years has contracted to provide services, supplies, materials, machinery or equipment to the Board.

The proposed amendments make other non-substantive technical changes to the disclosure category language to reflect the current reporting requirements for each of the reclassified and newly designated positions. Copies of the amended code are available and may be requested from the Contact Person set forth below.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has made the following determinations:

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments will have no effect on small businesses. This determination was made because no small businesses are legally required to comply with the regulation, are legally required to enforce the regulation, or derive a benefit from or incur an obligation from the enforcement of the regulation.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The proposed regulatory action does not impose a mandate on local agencies or school districts.

FISCAL IMPACT STATEMENT

The proposed regulatory action imposes (1) no cost or savings to any state agency; (2) no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code; (3) no other non discretionary cost or savings to local agencies; and (4) no costs or savings in federal funding to the state.

EFFECT ON BUSINESSES

It has been determined that the proposed regulatory action will not have a significant adverse economic impact on business including the ability of California businesses to compete with businesses in other states. No studies or data were relied upon in making this determination.

POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The cost impact of the proposed regulatory action is expected to be inconsequential on directly affected private persons. The Board expects no cost impact on directly affected businesses.

ASSESSMENT OF IMPACT ON SMALL BUSINESS AND INDIVIDUALS

The adoption of this regulation will neither create nor eliminate jobs or businesses in the State of California, will not result in the elimination of existing businesses, and will neither reduce or expand businesses currently doing business in the State of California. The proposed regulation will not affect small businesses because the regulations will only affect Board employees.

EFFECT ON HOUSING COSTS

The proposed regulatory action will have no impact on housing costs.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(12), the Board must determine that no alternative it considered would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

At the January 18, 2001, General meeting, wherein the Board preliminarily adopted the proposed regulatory text, no other alternatives were considered. However, the Board President, Robert T. (Tom) Flesh invited and encouraged the submission of written and oral comments. Furthermore, Mr. Flesh indicated that the Board instructing staff to go forward with the proposed rulemaking, did not necessarily indicate final Board action. If any written or oral comments were received, the full Board would consider the comments and reconsider the text of the proposed rulemaking. Lastly, if the staff decided that modifications to the proposed text were necessary, the Board would consider those modifications at a noticed meeting. If there were no written or oral comments received, then the rulemaking process will proceed without further Board involvement.

CONTACT PERSON/BACKUP CONTACT PERSON

Please direct inquiries concerning the substance of the proposed action, requests for copies of the proposed text (the "express terms") of the regulation, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to:

Mike Dingwell, Staff Counsel
New Motor Vehicle Board
1507 21st Street, Suite 330
Sacramento, CA 95814
Telephone: (916) 445-2080

In the event the Contact Person is not available, inquiries concerning the substance of the proposed action, requests for copies of the proposed text (the “express terms”) of the regulation, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based may be directed to the following Backup Contact Person:

Robin P. Parker, Staff Counsel
New Motor Vehicle Board
1507 21st Street, Suite 330
Sacramento, CA 95814
Telephone: (916) 445-2080

AVAILABILITY OF INFORMATION VIA THE INTERNET

Information regarding the proposed amendments may be obtained from the Board’s web site: www.nmvb.ca.gov before or by July 1, 2001.

STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board has prepared an initial statement of reasons for the proposed action, and has available all the information upon which the proposal is based. The express terms of the proposed action are written in plain English and are available from the contact person named in this notice. The contact person identified in this notice shall make available to the public upon request the express terms of the proposed action using underline to indicate additions, and strikeout to indicate deletions from, the California Code of Regulations. The contact person identified in this notice shall also make available to the public upon request the initial statement of reasons and the location of public records, including reports, documentation, and other materials, related to the proposed action.

AVAILABILITY OF MODIFIED TEXT

Following the written comment period and public hearing, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the full modified text with changes clearly indicated shall be made available to the public for at least 15 days prior to the date on which the Board adopts the resulting regulation. Requests for copies of a modified regulation should be addressed to the Board contact person identified in this notice. The Board will accept written comments on the modified regulation for 15 days after the date on which it is first made available to the public.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Any person or business submitting a comment to the proposed regulation has the right to request a copy of the final statement of reasons.